

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

LINDA SUTHERLAND, Individually, and
o/b/o KS, IS, and TS,

Charging Parties,

-v-

HC DAVIS ELEMENTARY SCHOOL,

Respondent.

Case #s 0074012332 to 0074012335

**FINAL AGENCY DECISION
AND ORDER**

Linda Sutherland (Sutherland) filed complaints with the Department of Labor and Industry (Department) alleging that HC Davis Elementary School (School) discriminated against her and three of her children based on their race, Native American. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Sutherland's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Sutherland filed objections with the Montana Human Rights Commission (Commission) and the cases were consolidated. The Commission considered the matter on November 14, 2007. James St. Goddard appeared and argued on behalf of Sutherland and her children. David Dalthorp appeared and argued on behalf the School.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaints in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-*

2-511(3)(a), MCA. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Linda Sutherland's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against HC Davis Elementary School.

DATED this ____ day of November, 2007.

Ryan Rusche, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of November, 2007.

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